

SUMMARY REPORT DIGEST-
COMPLAINT REGISTER INVESTIGATION NO.:
CHICAGO POLICE DEPARTMENT

305076

DATE OF REPORT (DAY-MO.-YEAR)
18 October 2005

To be used in all cases that are to be classified as either EXONERATED, UNFOUNDED, NOT SUSTAINED cases where the Disciplinary Recommendation does not exceed FIVE (5) DAYS SUSPENSION.

SUBMIT ORIGINAL AND 3 COPIES IF ASSIGNED TO SAME UNIT AS ACCUSED.
SUBMIT ORIGINAL AND 4 COPIES IF NOT ASSIGNED TO SAME UNIT AS ACCUSED.

TO: SUPERINTENDENT OF POLICE
ATTENTION ☒ ADMINISTRATOR IN CHARGE, OFFICE OF PROFESSIONAL STANDARDS
☐ ASSISTANT DEPUTY SUPERINTENDENT, INTERNAL AFFAIRS DIVISION

FROM - INVESTIGATOR'S NAME FRANKO, Linda		RANK Inv	STAR NO. 217	SOCIAL SEC. NO. XXX-XX-XXXX	EMPLOYEE NO. 2 - Uniq...	UNIT ASSIGN. 113
ADDRESS OF INCIDENT 512... W. Huron			DATE OF INCIDENT - TIME 22 Apr 2005 at 1612 hrs.		BEAT OF INCIDENT 1531	LOCATION CODE 017
ACCUSED	NAME 1. McDONALD, Susan		RANK Sgt.	STAR NO. 1895	SOCIAL SEC. NO. XXX-XX-XXXX	EMPLOYEE NO. 1 - Pers...
	2. TORRES, Noel		PO	3367	XXX-XX-XXXX	2 - U...
	SEX/RACE 1. F / W	D.O.B. Feb 61	DATE OF APPOINTMENT 29 Nov 82		DUTY STATUS (TIME OF INCIDENT) <input checked="" type="checkbox"/> ON DUTY <input type="checkbox"/> OFF DUTY	
	2. M/H	Jan 71	24 Sep 01		<input checked="" type="checkbox"/> SWORN <input type="checkbox"/> CIVILIAN	
	PHYS. COND. CODE					
CHARGES			COURT BRANCH		DISPOSITION & DATE	
COMPLAINANTS	NAME 1 - Personal info		ADDRESS** 1 - Personal info		CITY STATE Chicago, IL	TELEPHONE 1 - Personal info
	SEX/RACE F / B		D.O.B./AGE 1 - Feb 64		PHYS. COND. CODE	
	NAME 1 - Personal info		ADDRESS** 1 - Personal info		CITY STATE Chicago, IL	TELEPHONE 1 - Personal info
VICTIMS	SEX/RACE M / B		D.O.B./AGE 1 - May 84		PHYS. COND. CODE	
	NAME 1 - Personal info		ADDRESS** 1 - Personal info		CITY STATE Chicago, IL	TELEPHONE 1 - Personal info
WITNESSES	NAME		ADDRESS**		CITY STATE	TELEPHONE
	SEX/RACE		D.O.B./AGE		PHYS. COND. CODE	

() SEE ATTACHED SHEET FOR ADDITIONAL ACCUSED, COMPLAINANTS, VICTIMS, WITNESSES.

On 23 April 2005, at 2010 hours, the complainant 1 - Personal info who did not witness the incident, telephoned the Office Professional Standards on behalf of the victim, 1 - Pers, 1 - Personal ..., and registered a complaint with Investigator Daniel Ko #287, Unit 113. It is alleged by 1 - Pers, 1 - Personal ..., that on 22 April 2005, at approximately 1612 hours, in the vicinity of 1 - Personal info Sgt. Susan McDonald #1895, Unit 015: 1) tasered him without justification. It is also alleged that during the same incident, Officer Noel Torres #3367, Unit 015: 1) struck him on his head with a police radio. It is also alleged that during the same incident Officer Carlos Huerta, #19394 Unit 015: 1) punched him on his face and head several times. further alleged that during the same incident, an Unidentified Officer: 1) placed his knee on his neck.

I.A.D. LOCATION CODES*			I.A.D. PHYSICAL CONDITION CODES		
01 Food Sales/Restaurant	11 Public Transportation Veh./Facility	01 No Visible Injury - Apparently Normal	01 No Visible Injury - Apparently Normal		
02 Tavern/Liquor Store	12 Park District Property	02 No Visible Injury - Under Influence	02 No Visible Injury - Under Influence		
03 Other Business Establishment	13 Airport	03 Injured, Not Hospitalized	03 Injured, Not Hospitalized		
04 Police Building	14 Public Property - Other	04 Injured, Not Hospitalized - Under Influence	04 Injured, Not Hospitalized - Under Influence		
05 Lockup Facility	15 Other Private Premise	05 Injured, Hospitalized	05 Injured, Hospitalized		
06 Police Maintenance Facility	16 Expressway/Interstate System	06 Injured, Hospitalized - Under Influence	06 Injured, Hospitalized - Under Influence		
07 CPD Automotive Pound Facility	17 Public Way - Other	07 Injured, Refused Medical Aid	07 Injured, Refused Medical Aid		
08 Other Police Property	18 Waterway, Incl. Park District	08 Injured, Refused Medical Aid - Under Influence	08 Injured, Refused Medical Aid - Under Influence		
09 Police Communications System	19 Private Residence	09 Deceased	09 Deceased		
10 Court Room		10 Deceased - Under Influence	10 Deceased - Under Influence		

** IF CPD MEMBER, LIST RANK, STAR, SOCIAL SECURITY, EMPLOYEE NOS. IN ADDRESS BOX, PAX/BELL IN TELEPHONE BOX.

C.R. NO. 305076

Briefly summarize the investigation describing your efforts to prove or disprove the allegation(s). Indicate whether witnesses or evidence support or do not support the allegations(s).
In sustained cases ONLY, copies of the accused member's Summary of Previous Disciplinary Actions and Record of Previous Complimentary History will be included as attachments.

The following investigative steps were taken to prove or disprove the allegations:

Obtained an in-person interview with [REDACTED] whose birth name is [REDACTED] but uses [REDACTED] [REDACTED] related the same allegations as stated in the "Allegations section" of this report. [REDACTED] added while he was being was being arrested he began to push the officers off of him because he did not want to go to jail. [REDACTED] stated that he was in the head with a police radio. He passed out during the altercation and when he came to, he was tasered by a white female wearing a white shirt. [REDACTED] further states that [REDACTED] and [REDACTED] were not on the scene when he was arrested but across the street. [REDACTED] suffered from a headache and numbness to the right side of his body. He was taken to 0th District, then to Loretto Hospital. (Att. #33).

Attempts to contact witnesses [REDACTED] and [REDACTED] were unsuccessful. The witnesses were uncooperative. (Att. #42,43).

A Canvass of the area produced no witnesses. (Att. #26).

The Ambulance report indicated that ambulance #10 treated [REDACTED] (Att. #37,38).

Medical records of [REDACTED] from Loretto Hospital, indicate that [REDACTED] arrived in police custody and complained of body numbness, and severe muscle pain due to being tasered. The reports state [REDACTED] was given a head and chest exam with both appearing normal. [REDACTED] did not inform the hospital personnel of having been struck on the head with police radio or any other object. [REDACTED] was treated and released. (Att. #44).

See page 2

INVESTIGATIVE REPORTS-
SUPPORTING ALLEGATION
LIST ATTACHMENT NUMBERS:

33

INVESTIGATIVE REPORTS-
SUPPORTING ACCUSED MEMBER(S)
LIST ATTACHMENT NUMBERS:

3,13, [REDACTED], 20,

PHYSICAL EVIDENCE
LIST ATTACHMENT NUMBERS:

28-28M, 40-40C, 44

TOTAL NUMBER OF ATTACHMENTS
SUBMITTED WITH THIS FILE:

67

Summarize the findings and recommendations. Rule violations will be cited by number only. One overall recommendation for Disciplinary Action will be made by the investigator. The recommendation will be for ALL sustained findings; recommendations will NOT be made for each sustained allegation.
Example: 1. Violation noted, no disciplinary action warranted. 2. That the accused member be reprimanded. 3. That the accused member be suspended for days (not to exceed 5 days).

FINDINGS:

Accused #1: Sgt. Susan McDonald #1895
Allegation 1: UNFOUNDED
Accused #2: P.O. Noel Torres #3367
Allegation 1: UNFOUNDED
Accused #3: P.O. Carlos Huertas #19394
Allegation 1: EXONERATED
Accused #4: Unidentified Officer
Allegation 1: NOT SUSTAINED

Approved

2 - Unique identifiers

O.P.S. Supervisor Maria Elena Olvera #124

DATE INITIATED (DATE COMPLAINT WAS
RECEIVED FOR INVESTIGATION)

23 April 2005

DATE COMPLETED (DATE OF THIS REPORT)

18 October 2005

ELAPSED TIME (TOTAL TIME, EXPRESSED IN DAYS)

178 Days

Investigator will initiate the Command Channel Review
for by completing the Investigator's Section.

INVESTIGATOR'S SIGNATURE

2 - Unique identifiers

IF NECESSARY, USE AN 8½ X 11" SHEET OF WHITE PAPER TO CONTINUE ANY ITEM

ADDITIONAL ACCUSED (continued):

3) **HUERTA, Carlos**, PO, Star # 19394, Employee # [REDACTED], Unit 015, M / H, DOB: [REDACTED]
Sep 74, DOA: 27 Jul 98, On Duty, Sworn, 01.

4) **Unidentified Officer**

INVESTIGATION (continued):

A printout of the OEC revealed that a 10-1 was issued for the location of 511... W. Huron, with Beat's #2- Un..., 1568 and 510, responding to the scene. EMS was requested because an offender had been tasered. The OEC also revealed that Officer Huerta was taken to a Hospital and that Evidence Technician would be requested. (Att. #21-23).

Evidence photographs taken of 1 - Pers 1 - Personal... 's face depict no obvious signs of injury. (Att. #40-40C).

Evidence photographs taken of Officers Huerta and Torres depict Huerta with some redness and swelling to the left side of his face. Also Huerta's right hand has several cuts, including to his fingernail on his right index finger. Officer Torres is shown with a thin, horizontal cut over his right eyebrow. (Att. #28-28M).

Department reports indicate that when Officers Huerta and Torres approached 1 - Personal..., 1 - Personal... placed unknown objects into his mouth while standing near the entrance of 511... W. Huron. When Officer Huerta attempted to recover the objects, 1 - Personal... shoved Officer Huerta against the side of the front door. As Officers Huerta and Torres attempted to place 1 - Personal... into custody, he resisted by swinging closed fists in an attempt to defeat the arrest. 1 - Personal... struck Officer Huerta on the face and also struck Officer Torres on the face. 1 - Personal... continued attacking the officers while they attempted emergency handcuffing techniques to control him. 1 - Personal... was placed into custody after being tased by Sgt. McDonald. 1 - Personal... was charged with possession of less than 15grams of cocaine, and two (2) charges of aggravated battery against an officer.

The reports indicate that 1 - Personal... and 1 - Personal Info were also taken into custody with 1 - Personal... and charged with obstructing an officer. The supplemental report states 1 - Personal Info attempted to pull 1 - Personal... away from the Officers in an attempt to defeat arrest. The TRR's indicate as does the Taser report that 1 - Personal... was tased when resisting arrest. Officer Torres and Huerta stated in their TRR's that they utilized closed fist, elbow, and knee strikes on 1 - Personal... to effect the arrest. (Att. #3,13,14,15,16, 1... 20).

In a report submitted by P.O. Carlos Huerta #19394 he denied the allegation made against him. He stated that he used reasonable force to affect arrest, which included hand strikes/punch. He also stated that 1 - Personal... punched him on his face. (Att. #59).

In a Report submitted by P.O. Noel Torres #3367 he denied the allegation made against him. (Att. #65).

Report submitted from Sgt. Susan McDonald #1895, stated that she responded to a 10-1 occurring at 511... W. Huron. Upon arriving at the scene, she observed 1 - Personal... on the ground and Officers Huerta and Torres trying to place him into custody. 1 - Personal... was observed attempting to flee by pulling his arms, swinging them around and kicking at the officers. After several verbal warnings to comply but adding that if he did not comply he would be tasered, 1 - Personal... again refused to comply. After being tasered, Officers Huerta and Torres were then able to handcuff 1 - Personal... Sgt. McDonald further stated that she observed fresh cuts to P.O. Huerta. Sgt. McDonald stated that she did not have any other physical contact with 1 - Personal..., and she was fully justified in using the taser on 1 - Personal... as he was classified as both an Active Resister and an Assailant. (Att. #62).

Conclusion:

The reporting investigator recommends a finding of **UNFOUNDED** for allegation #1 against Sgt. Susan McDonald #1895. Contrary to 1 - Personal... 's allegations that the taser use was unjustified, 1 - Personal... was clearly actively resisting arrest. Sgt. McDonald, as well as Officer Torres and Huerta documented 1 - Personal... as an assailant. Sgt. McDonald acted within the Use of Force guidelines.

Conclusion:

The reporting investigator recommends a finding of **UNFOUNDED** for allegation #1 against **P.O. Noel Torres #3367**. Medical records indicated [1 - Personal ...] made no complaints of being struck on the head with a radio or blunt object. Officer Torres denied the allegation. (Att. #65).

The reporting investigator recommends a finding of **EXONERATED** for allegation #1 against **P.O. Carlos Huertas #19394**. P.O. Huertas admits using force on [1 - Personal ...], including punches, kicks and knees. Department reports along with the arresting officers state that [1 - Personal ...] was actively resisting arrest and an assailant. P.O. Huerta's acted within the Use of Force guidelines.

The reporting investigator recommends a finding of **NOT SUSTAINED** regarding allegation #1 against an **Unidentified Officer**. There is insufficient evidence to support or disprove the allegation. There are no witnesses to corroborate this allegation.